

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

BRIAN S. MURPHY

Plaintiff,

v.

**KEOLIS COMMUTER SERVICES,
LLC**

Defendant.

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Case No._____

COMPLAINT AND REQUEST FOR JURY TRIAL

Plaintiff Brian S. Murphy, by and through undersigned counsel sues Defendant Keolis Commuter Services, LLC., and as causes of action states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Brian S. Murphy is a citizen of Massachusetts and resides in Middlesex County.
2. Defendant Keolis Commuter Services, LLC (“Keolis”), is a railroad corporation organized under the laws of Delaware, with its principal place of business in Boston Massachusetts, and doing business throughout the Greater Boston area, engaging in the carrying of passengers for hire between and through several States of the United States.
3. This Court has original federal question subject matter jurisdiction in this case pursuant to 28 U.S.C. § 1331 and the Federal Employers’ Liability Act, 45 U.S.C.. § 51, et seq, (“FELA”).
4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) inasmuch as a

substantial part of the events or omissions giving rise to this claim occurred in Massachusetts. And 28 U.S.C. §1391(b)(2) inasmuch as Keolis' principal place of business is in Boston, Massachusetts, and is doing business throughout the Greater Boston area, engaging in the carrying of passengers for hire between and through several States of the United States.

5. Plaintiff's action arose under the FELA, 45 U.S.C., 51, et seq.

6. At all times herein mentioned, the Plaintiff and the Defendant were engaged in interstate commerce; all trackage, cars, equipment, and premises involved were under the control of the Defendant.

7. On or about July 13, 2017, the Plaintiff, while in the employ of the Defendant as a Conductor, sustained severe injuries.

8. On that date, the Plaintiff was performing his duties on Train 202, reporting to Bradford, MA. After leaving the station, the Plaintiff noticed that the rear door on the car was sticking and would not open. It was a sliding door. The only way to open the door was to step outside of the car and do it from the outside. At the same time that the Plaintiff was trying to open the door from the outside, a passenger opened the door from the inside, causing the Plaintiff's hand to slide with the door and catching his left middle finger, resulting in a crush injury.

9. Defendant Keolis owed to the Plaintiff a non-delegable duty to provide a reasonably safe place in which to perform her work.

10. Defendant Keolis breached its duty to provide the Plaintiff with a reasonably safe place to work in that:

a. It failed to use reasonable care to furnish Plaintiff with a reasonably safe place to work;

b. It failed to properly maintain the condition of the door, in that the door was sticking and was unreasonably hard to open;

c. It failed to warn the Plaintiff of the danger presented by the defective nature of the door;

d. It failed to post a notice that this particular door was faulty and hard to open, since apparently this is a problem with many of the car doors and the Defendant is well aware of this problem;

e. It was otherwise careless, reckless and negligent.

11. As a direct and proximate result of the negligence of Defendant Keolis, the Plaintiff was seriously, painfully and permanently injured about the body and limbs, resulting in injuries to his left hand, left middle finger, which caused and will continue to cause pain, suffering, and mental anguish, medical and other related expenses, an inability to perform his usual activities, and loss of income and wage earning capacity, all past, present, and future.

WHEREFORE, the Plaintiff, Brian S. Murphy, demands judgment against the Defendant, Keolis, in an amount to be determined by the Jury, together with interest and costs.

BRIAN S. MURPHY
By his Attorney,

/s/ Carolyn M. Latti
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REQUEST FOR JURY TRIAL

Plaintiff Brian S. Murphy, by and through the undersigned counsel, requests a jury trial on issues presented herein.

/s/ Carolyn M. Latti
Carolyn M. Latti, Esquire

Dated: July 8, 2020